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DOYLESTOWN, PA 18901

EXAMINER

VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 12/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/928,024	ELDERING ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Van Bramer	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-66 and 82-99 is/are pending in the application.
- 4a) Of the above claim(s) 87-99 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-66 and 82-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)            |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date <u>092506,092304,082404</u> .                                    | 6) <input checked="" type="checkbox"/> Other: <u>IDS: 082304</u> . |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 87-99 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:  
Independent Claims 1 and 53 are directed towards targeting advertisements to subscribers and Claim 62 is directed towards how the formation of a targeted group based upon node profiles and forming sets of targeted nodes. However, Claim 87 is directed towards identifying individual consumers within a targeted market, and forming groups, within the entire targeted market, based upon the individual's characteristic.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 87-99 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Objections***

1. The amendment filed on September 25, 2006 has cancelled claims 67-81. Therefore, all of the claims objected to in the Office Action dated May 22, 2006 have been cancelled. Thus, the examiner hereby withdraws the objection.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 82 recites the limitation "The appropriate weighting factor". There is insufficient antecedent basis for this limitation in the claim because an appropriate weighting factor has not been claimed. Claims 83 and 84 also suffer from insufficient antecedent basis due to their dependency on Claim 82.

4. Claims 85 and 86 recite the limitation that "subscriber profiles do not contain private data". However Claim 1 from which these claims depend indicates that subscriber profiles are based upon subscriber data, which includes private data. Claim 1 further indicates that the private data contained in subscriber profiles is not revealed. Claims 85 and 86 seem to contradict the fact that private data may be contained in the subscriber as recited by Claim 1. Therefore, Claims 85 and 86 are considered indefinite.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-8, 10-24 and 82-86 are rejected under 35 U.S.C. 102(b) as being anticipated by Herz et al (U.S. Patent Number: 5,754,939).

Claim 1. Herz discloses a method for matching advertisements to subscribers, the method comprising:

- a. Receiving advertisement profiles that include traits associated with an intended target market for an associated advertisement. (Col 6, lines 1 – 33)
- b. Gathering subscriber data from at least one source, wherein the subscriber data is selected from at least a subset of transactional data, public data, private data, and demographic data. (Col 5, lines 5 – 30)
- c. Generating subscriber profiles based on at least a subset of gathered subscriber data, wherein the subscriber profiles predict traits about the subscribers without revealing any private data or raw transaction data associated with the subscribers. (Col 5, lines 36 – 56)
- d. Correlating the advertisement profiles with the subscriber profiles. (Col 40, lines 9 – 28)
- e. Selecting targeted advertisements that meet a minimum correlation threshold. (Col 40, lines 4 – 38)

Claim 2. Herz discloses the method of claim 1, further comprising grouping subscribers having similar subscriber profiles. (Col 23, line 43 – Col 24, line 21)

Claim 3. Herz discloses the method of claim 2, further comprising generating a group profile by averaging the subscriber profiles for all subscribers within the group, and wherein said correlating includes correlating the group profiles with the advertisement profiles. (Col 23, line 43 – Col 24, line 21 and Col 40, lines 9 – 28)

Claim 4. Herz discloses the method of claim 1, wherein said correlating includes forming subscriber groups for at least a subset of the advertisement profiles, each subscriber group including subscribers whose subscriber profiles are most similar to a respective advertisement profile. (Col 23, line 43 – Col 24, line 21 and Col 40, lines 9 – 28)

Claim 5. Herz discloses the method of claim 1, wherein said gathering includes monitoring subscriber viewing activities. (Col 5, lines 5 – 30)

Claim 6. Herz discloses the method of claim 5, wherein said generating includes aggregating the subscriber viewing activities to develop subscriber viewing characteristics. (Col 23, line 43 – Col 24, line 21)

Claim 7. Herz discloses the method of claim 5, wherein the subscriber viewing activities include at least some subset of channel changes, volume commands, record commands and EPG commands. (Col 11, lines 17 – 51)

Claim 8. Herz discloses the method of claim 6, wherein the subscriber viewing characteristics include at least some subset of program preference, network preference, genre preference, volume preference, dwell time, and channel change frequency. (Col 10, lines 25 – 60)

Claim 10. Herz discloses the method of claim 5, wherein said generating includes retrieving heuristic rules associated with the subscriber viewing activities; and applying the heuristic rules to the subscriber viewing activities to generate the subscriber profiles, wherein the subscriber profiles predict traits about the subscriber not captured in the subscriber viewing activities. (Col 19, lines 8 – 32)

Claim 11. Herz discloses the method of claim 6, wherein said generating further includes retrieving heuristic rules associated with the subscriber viewing characteristics; and applying heuristic rules to the subscriber viewing characteristics to generate the subscriber profiles, wherein the subscriber profiles predict traits about the subscriber not captured in the subscriber viewing characteristics. (Col 19, lines 8 – 32)

Claim 12. Herz discloses the method of claim 6, wherein said generating further includes retrieving heuristic rules associated with the subscriber viewing activities and the subscriber viewing characteristics; and applying the heuristic rules to the

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subscriber viewing activities and the subscriber viewing characteristics to generate the subscriber profiles, wherein the subscriber profiles predict traits about the subscriber not captured in the subscriber viewing activities or the subscriber viewing characteristics. (Col 19, lines 8 – 32)

Claim 13. Herz discloses the method of claim 1, wherein the subscriber profiles include probabilistic demographic traits of the subscribers. (Col 28, lines 9 – 40)

Claim 14. Herz discloses the method of claim 1, wherein said generating includes retrieving heuristic rules associated with transactional data gathered for the subscribers, wherein the heuristic rules identify traits likely associated with the subscribers performing those transactions. (Col 20, lines 15 – 63)

Claim 15. Herz discloses the method of claim 14, wherein the heuristic rules identify traits not readily identifiable with the transaction data. (Col 20, lines 15 – 63)

Claim 16. Herz discloses the method of claim 14, wherein the heuristic rules identify demographic traits. (Col 20, lines 15 – 63 and Col 28, lines 9 – 40)

Claim 17. Herz discloses the method of claim 1, wherein said gathering includes gathering information from a plurality of distributed databases. (Col 30, lines 54 –



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63)

Claim 18. Herz discloses the method of claim 17, wherein the plurality of distributed databases includes at least some subset of viewing characteristics, purchasing characteristics, transaction characteristics, statistical information and deterministic information. (Col 23, line 43 – Col 24, line 21)

Claim 19. Herz discloses the method of claim 1, wherein said generating includes generating subscriber profiles in the form of a ket vector. (Col 12, lines 53 – 58)

Claim 20. Herz discloses The method of claim 19, wherein the ket vector is represented by:  $|A\rangle = (a_1p_1 + \dots + a_np_n) + \dots + (m_1w_1 + \dots + m_nw_n)$  wherein  $a_1$  through  $m_n$  represent weighting factors and  $p_1$  through  $w_n$  are identification factors selected from at least a subset of viewing characteristics, purchasing characteristics, transaction characteristics, statistical information and deterministic information. (Col 15, line 62 through Col 17, line 5 and Col 23, line 43 through Col 24, line 21)

Claim 21. Herz discloses the method of claim 19, wherein said correlating includes applying an operator to the subscriber profiles to determine if an advertisement is applicable to associated subscribers. (Col 18, lines 39 – 67)

Claim 22. Herz discloses the method of claim 1, wherein said correlating is performed by a secure correlation server. (Col 45, line 38 through Col 46, line 27)

Claim 23. Herz discloses the method of claim 1, wherein said correlating is done by each subscriber. (Col 17, lines 20 – 33)

Claim 24. Herz discloses the method of claim 1, further comprising presenting the targeted advertisements to the subscribers. (Col 40, lines 29 – 34)

Claim 82: Herz discloses the method of claim 1, wherein said generating includes applying the appropriate weighting factor to the subscriber data. (Col 5, lines 6-20; Col 17, line 20 through Col 18, line 18; and Fig 12)

Claim 83: Herz discloses the method of claim 82, wherein said weighting factor is assigned according to the source of the subscriber data. (Col 5, lines 6-20; Col 17, line 20 through Col 18, line 18; and Fig 12).

Claim 84: Herz discloses the method of claim 82, wherein said weighting factor is assigned according to heuristic rules. (Col 5, lines 6-20; Col 17, line 20 through Col 18, line 18; and Fig 12)

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Claim 85: Herz discloses the method of claim 1, wherein the subscriber profiles do not contain any private data or raw transaction data. (Col 5, lines 36-67)

Claim 86: Herz discloses the method of claim 1, wherein the subscriber profiles contain characteristics about the private data or raw transactions, but do not contain private data or raw transaction data. (Col 5, lines 36-67)

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 53 – 66 are rejected under 35 U.S.C. 102(e) as being anticipated by Hendricks et al. (U.S. Patent Number: 6,463,585).

Claim 53. Hendricks discloses a method for targeting advertisements to subscribers of a television delivery system, wherein the targeted advertisements are presented in advertisement opportunities within television program streams, the method comprising

- a. Monitoring subscriber interactions with a television. (Col 20, lines 4 – 36)

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- b. Aggregating the monitored subscriber interactions to generate viewing characteristics that identify traits associated with the subscribers but do not identify raw interaction data. (Col 21, lines 8 – 18)
- c. Predicting subscriber traits not related to the subscriber interactions with the television by applying heuristic rules associated with the viewing characteristics. (Col 35, lines 16 – 28)
- d. Creating subscriber profiles by combining at least some subset of the viewing characteristics and the subscriber traits. (Col 20, lines 4 – 35 and Col 29, lines 6 – 32)
- e. Receiving advertisement profiles that identify traits and characteristics of an intended target market of associated advertisements and a minimum correlation threshold. (Col 37, lines 13 – 33)
- f. Correlating the advertisement profiles and the subscriber profiles. (Col 37, lines 34 – 43)
- g. Identifying the subscribers meeting the correlation threshold for each of the associated advertisements as a target group. (Col 39, lines 50 – 57)
- h. Targeting the associated advertisements to the target groups. (Col 39, lines 50 – 57)

Claim 54. Hendricks discloses the method of claim 53, wherein the predicted subscriber traits include demographic traits. (Col 5, lines 52 – 67)

Claim 55. Hendricks discloses the method of claim 53, further comprising gathering additional subscriber characteristics from at least one external database, and wherein said creating subscriber profiles includes creating subscriber profiles by combining at least some subset of the viewing characteristics and the subscriber traits with at least some subset of the additional subscriber characteristics. (Col 26, lines 42 – 53)

Claim 56. Hendricks discloses the method of claim 55, wherein said additional subscriber characteristics include at least a subset of purchasing and transaction characteristics. (Col 20 lines 4 – 36)

Claim 57. . Hendricks discloses the method of claim 53, further comprising gathering additional subscriber traits from at least one external database, and wherein said creating subscriber profiles includes creating subscriber profiles by combining at least some subset of the viewing characteristics and the subscriber traits with at least some subset of the additional subscriber traits. (Col 26, lines 42 – 53)

Claim 58. Hendricks discloses the method of claim 57, wherein said additional subscriber traits include at least a subset of demographic and interest traits. (Col 26, lines 42 – 53)

Claim 59. . Hendricks discloses the method of claim 53, further comprising gathering deterministic information about subscriber traits and characteristics from the subscribers via questionnaires or surveys, and wherein said creating subscriber profiles includes creating subscriber profiles by combining at least some subset of the viewing characteristics and the subscriber traits with at least some subset of the deterministic information. (Col 26, lines 42 – 53)

Claim 60. . Hendricks discloses the method of claim 53, further comprising generating a node profile by averaging the subscriber profiles for each subscriber connected to the node; and wherein said correlating includes correlating the advertisement profiles and the node profiles; and said identifying the subscribers includes identifying the nodes meeting the correlation threshold for each of the associated advertisements as a target group. (Col 37, lines 34 – 43, and Col 39, lines 50 – 57)

Claim 61. . Hendricks discloses a method for forming groups of subscribers within a television delivery system for the purpose of receiving targeted advertisements within advertisement opportunities in television program streams, the method comprising

- a. Retrieving demographic information for subscribers. (Col 26, lines 14 – 30, and Col 37, lines 13 – 33)

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- b. Associating the demographic information of the subscribers with particular nodes of the television delivery system. (Col 37, lines 36 – 44)
- c. Creating a demographic profile of the nodes by averaging the demographic information for each subscriber connected to the node. (Col 38, lines 16 – 48)
- d. Grouping the nodes based on a correlation associated with the demographic node profiles. (Col 38, lines 16 – 48)

Claim 62. . Hendricks discloses the method of claim 61, wherein said grouping includes correlating each demographic node profile with each of the other demographic node profiles and combining the nodes having the most similar correlation into groups. (Col 26, lines 54 – 67)

Claim 63. . Hendricks discloses the method of claim 61, wherein said grouping includes correlating each demographic node profile with at least one advertisement profile and combining the nodes having the most correlation with each of the at least one advertisement profiles into groups. (Col 38, lines 16 – 48)

Claim 64. Hendricks discloses the method of claim 61, further comprising

- a. Retrieving characteristic information about the subscribers. (Col 20, lines 4 – 35)

- b. Associating the characteristic information for the subscribers with the nodes of the television delivery system. (Col 20, lines 4 – 35)
- c. Creating a characteristic profile of the nodes by averaging the characteristic information for each subscriber connected to the node. (Col 29, lines 6 – 32; and Col 39, lines 58 – 65)
- d. Creating overall node profiles as an aggregation of at least some subset of the node characteristic profiles and the node demographic profiles (Col 29, lines 6 – 32; and Col 39, lines 58 – 65)
- e. Wherein said grouping the nodes includes grouping the nodes based on a correlation associated with the overall node profiles. . (Col 29, lines 6 – 32; and Col 39, lines 58 – 65)

Claim 65. . Hendricks discloses the method of claim 64, wherein said retrieving characteristic information about the subscribers includes monitoring subscriber interactions with a television; and aggregating the monitored subscriber interactions to generate viewing characteristics that identify traits associated with the subscribers but do not identify raw interaction data. . (Col 29, lines 6 – 32; and Col 39, lines 58 – 65)

Claim 66. Hendricks discloses the method of claim 64, wherein the characteristic information includes at least some subset of viewing characteristics, purchase characteristics and transaction characteristics. . (Col 29, lines 6 – 32; and Col 39,



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lines 58 – 65)

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 9, 25 – 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (U.S. Patent Number: 5,754,939) in view of Hendricks et al. (U.S. Patent Number: 6,463,585).

Claim 9. Herz discloses the method of claim 8. While, Herz is silent with regard to using “day part” as a subscriber viewing characteristic, the analogous teachings of Hendricks specifically include “day part” as a subscriber viewing characteristic used in targeting advertisements to television viewers (Hendricks, Col 69, lines 18 – 46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include “day part” as a subscriber viewing characteristics in the invention of Herz. One would have been motivated to do so in order to make sure that “specific advertisements are aired during television programming that is being viewed by those individuals most likely be influenced to buy the advertised product, or otherwise respond in the desired fashion to the advertisement.” (Hendricks: Col 3, lines 13 – 17)

Claim 25. Herz discloses the method of claim 24. While Herz discloses presenting targeted advertisements to users, he does not specifically state that these targeted advertisements are presented in “avails” (television breaks within the main program) within program streams. However, the analogous art of Hendricks discloses presenting targeted advertisements within breaks in the main program (Hendricks: Col 4, lines 25 – 42). It would have been obvious to one of ordinary skill at the time the invention was made that utilizing the invention of Herz in a television broadcast medium would require that the targeted advertisements be placed within the “avails” of the broadcast. One would have been motivated to do this in order to ensure that the advertisements were

displayed during normal interruption of the broadcast event.

Claim 26. Herz and Hendricks disclose the method of claim 25. While Herz discloses presenting targeted advertisements to users, he does not specifically state that these targeted advertisements are presented in video program streams. However, the analogous art of Hendricks discloses presenting targeted advertisements in video streams (Hendricks: Col 4, lines 25 – 42). It would have been obvious to one of ordinary skill at the time the invention was made that utilizing the invention of Herz in a television broadcast medium would require that the targeted advertisements be placed within video streams. One would have been motivated to do this in order to provide targeted advertisements to individuals “without requiring the user to expend an excessive amount of time and energy” (Herz, Col 4, lines 28 – 32).

Claim 27. Herz and Hendricks disclose the method of claim 26, While Herz discloses presenting targeted advertisements to users, he does not specifically state that these targeted advertisements are presented in television program streams. However, the analogous art of Hendricks discloses presenting targeted advertisements in television program streams (Hendricks: Col 4, lines 25 – 42). It would have been obvious to one of ordinary skill at the time the invention was made that utilizing the invention of Herz in a television broadcast medium would require that the targeted advertisements be placed within television program

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streams. One would have been motivated to do this in order to provide targeted advertisements to individuals “without requiring the user to expend an excessive amount of time and energy” (Herz, Col 4, lines 28 – 32).

Claim 28. Herz and Hendricks disclose the method of claim 25. While Herz discloses presenting targeted advertisements to users, he does not specifically state that these targeted advertisements are presented in video program streams. However, the analogous art of Hendricks discloses presenting targeted advertisements in video streams and generating and delivering, in addition to a default advertisement, multiple presentations streams for delivery of additional targeted advertisements (Hendricks: Col 4, lines 25 – 42). It would have been obvious to one of ordinary skill at the time the invention was made to use multiple presentation streams for delivery of targeted content. One would have been motivated to do so in order to make sure that “specific advertisements are aired during television programming that is being viewed by those individuals most likely be influenced to buy the advertised product, or otherwise respond in the desired fashion to the advertisement.” (Hendricks: Col 3, lines 13 – 17).

Claim 29, Claim 30, and Claim 31. Herz and Hendricks disclose the method of claim 28, While Herz discloses presenting targeted advertisements to users, he does not specifically state that these targeted advertisements are presented in video program streams via a cable television head-end. However, the analogous

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art of Hendricks discloses that one or more presentation streams are sent from the cable television head-end to the set top box, and that advertisement insertion is performed at either location (Hendricks: Col 4, 25 – 42, Col 11, lines 55 – 61). Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to generate at least one presentation stream at a cable television head-end. One would have been motivated to do this in order to provide a user with a television program containing targeted advertisement. Without sending at least one program stream from the head end, there would be nothing for the user to watch.

Claim 32. Herz and Hendricks disclose the method of claim 31, wherein each node receives only a single targeted presentation stream for each program stream. (Hendricks: Col 12, lines 20 – 30 and Col 27, lines 20 – 27)

Claim 33. Herz and Hendricks disclose the method of claim 29, further comprising grouping nodes having similar profiles together to form a node cluster, and wherein said delivering includes delivering each node within the node cluster the same presentation stream. (Hendricks: Col 27, lines 1 – 6, and Col 27, lines 63 – 67)

Claim 34. Herz and Hendricks disclose the method of claim 34, wherein said grouping nodes is not restrained by geographic proximity. (Hendricks: Col 26,

lines 54 – 67)

Claim 35. Herz and Hendricks disclose the method of claim 33, further comprising generating a node profile by averaging the subscriber profiles for each subscriber connected to the node. (Hendricks; Col 35, lines 16 – 65)

Claim 36. Herz and Hendricks disclose the method of claim 29, wherein said delivering includes delivering multiple presentation streams associated with a single program stream to each node connected to the head-end, selecting the appropriate presentation stream for each node, and delivering the appropriate presentation stream to the subscribers connected to each node. (Hendricks: Col 26, lines 14 – 30, and Col 54, lines 51 – 67)

Claim 37. Herz and Hendricks disclose the method of claim 36, wherein said delivering multiple presentation streams includes delivering each of the multiple presentation streams at different frequencies, statistically multiplexed together at a single frequency, or at different wavelengths. (Hendricks: Col 12, lines 40 – 63, and Col 54, lines 51 – 67)

Claim 38. Herz and Hendricks disclose the method of claim 29, wherein said delivering includes delivering multiple presentation streams associated with a single program stream to each node connected to the head-end, selecting the

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appropriate presentation stream for each branch of each node, and delivering the appropriate presentation stream to the subscribers connected to each branch.

(Hendricks: Col 26, lines 14 – 30, and Col 54, lines 51 – 67)

Claim 39. Herz and Hendricks disclose the method of claim 38, wherein said delivering multiple presentation streams includes delivering each of the multiple presentation streams at different frequencies, and said selecting includes mapping the frequency of the presentation streams to appropriate branches.

(Hendricks: Col 13, lines 36 – 59, and Col 54, lines 51 – 67)

Claim 40. Herz and Hendricks disclose the method of claim 38, wherein said delivering multiple presentation streams includes delivering each of the multiple presentation streams statistically multiplexed together at a single frequency; and said selecting includes demodulating the statistically multiplexed presentation streams, routing the demodulated presentation streams, and modulating the routed presentation streams to appropriate branches. (Hendricks: Col 12, lines 40 – 63, Col 13, lines 36 – 59, and Col 54, lines 51 – 67)

Claim 41. Herz and Hendricks disclose the method of claim 38, wherein said delivering multiple presentation streams includes delivering each of the multiple presentation streams at a single frequency and different wavelengths; and said selecting includes demultiplexing the presentation streams and forwarding the

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different wavelength presentation streams to appropriate branches. (Hendricks: Col 54, lines 51 – 67)

Claim 42 Herz and Hendricks disclose the method of claim 28, wherein said generating at least one presentation stream is performed at a cable television node. (Hendricks: Col 18, lines 19 – 31)

Claim 43. Herz and Hendricks disclose the method of claim 28, wherein said delivering includes delivering, to each subscriber, a single targeted presentation stream for each program stream. (Hendricks: Col 27, lines 16 – 38)

Claim 44. Herz and Hendricks disclose the method of claim 28, wherein said delivering includes delivering, to each subscriber, a plurality of presentation streams for each program stream, and further comprising selecting the appropriate presentation stream for display to the subscriber. (Hendricks: Col 27, lines 16 – 38 and Col 27, lines 48 – 62)

Claim 45. Herz and Hendricks disclose the method of claim 24, wherein said presenting the targeted advertisements includes delivering a plurality of targeted advertisements to each subscriber; and inserting the targeted advertisements within advertisement opportunities in delivered program streams. (Hendricks: Col 27, lines 16 – 38)



Claim 46. Herz and Hendricks disclose the method of claim 45, wherein said inserting includes inserting the targeted advertisements based on a queue. (Hendricks: Col 38, lines 16 – 48)

Claim 47. Herz and Hendricks disclose the method of claim 46, wherein the queue is delivered to the subscriber. (Hendricks: Col 34, lines 39 – 59)

Claim 48. Herz and Hendricks disclose the method of claim 47, further comprising storing the targeted advertisements and the queue. (Hendricks: Col 34, lines 39 – 59)

Claim 49. Herz and Hendricks disclose the method of claim 48, wherein a PVR receives the program streams, the targeted advertisements, and the queue, stores the targeted advertisements and the queue, and inserts the targeted advertisements in the program streams based on the queue. (Hendricks: Col 14, line 66 through Col 15, line 12; and Col 34, lines 39 – 59)

Claim 50. Herz and Hendricks disclose the method of claim 24, wherein said presenting the targeted advertisements includes delivering a plurality of advertisements to each subscriber; delivering an advertisement profile for each of the plurality of advertisements; determining if each of the advertisements is

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applicable by correlating the associated advertisement profile with the subscriber profile, storing the applicable advertisements; inserting the applicable advertisements within advertisement opportunities in delivered program streams. (Hendricks: Col 27, lines 16 – 47, and Col 34, lines 39 – 68)

Claim 51. Herz and Hendricks disclose the method of claim 50, wherein said inserting includes inserting the applicable advertisements based on a queue. (Hendricks: Col 38, lines 16 – 48)

Claim 52. Herz and Hendricks disclose the method of claim 50, wherein said presenting the targeted advertisements is performed by a PVR. (Hendricks: Col 14, line 46 through Col 15, line 12; and Col 34, lines 39 – 59)

### ***Response to Arguments***

12. Applicant's arguments filed September 25, 2006 have been fully considered but they are not persuasive.

- a. The applicant argues that Herz does not teach "receiving advertisement profiles that include traits associated with an intended target market for an associated advertisement because the advertisements in Herz do not have an intended target market. However, the examiner <sup>contends</sup> ~~contents~~ that every advertisement in Herz has a target market and that market is that

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the advertisement is targeted to those consumers that would be most interested in seeing the advertised product.

- b. The applicant argues that Hendricks does not teach receiving ad profiles that identify a minimum correlation threshold or identifying the subscribers meeting the correlation threshold. However, Herz describes meeting multiple minimum thresholds in Col 37, lines 13-33. First a ranking threshold must be met to be included in table G. Additionally an appropriateness threshold must be met. Finally, an advertisement must meet the minimum threshold of obtaining the highest ranking based upon the previous two thresholds being met.
- c. The applicant argues that Hendricks does not teach a correlation threshold. However, the highest ranking threshold described in Col 37, lines 13-33 is obtained by a correlation of the data contained in two separate tables (Tables G and H)
- d. The applicant argues that Hendricks does not identify the corresponding subscribers, but instead just assigns feeder channels to them. However, in order to assign a feeder channel to a corresponding subscriber they had to be identified.
- e. The applicant argues that Hendricks does not teach averaging the demographic information for each subscriber connected to the node. However, this is taught in Col 35, line 16 through Col 36, line 67)

***Conclusion***

13. The prior art **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

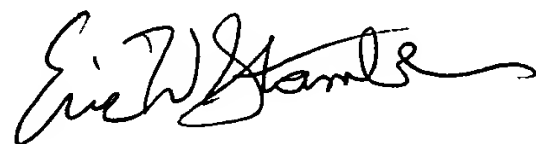
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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